

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: MARIGLIANO

Application No.: 10/634,698

Filing Date: 8/5/2003

For: SYSTEMS FOR ELECTRONIC
TRADING

) Confirmation No.: 7559

)

) Group Art Unit: 3693

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) Examiner: Jessica L. Lemieux

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) **ARGUMENTS IN SUPPORT OF PRE-**

) **APPEAL BRIEF REQUEST FOR**

) **REVIEW**

)

) Docket No.: G08.028/U

)

) **PTO Customer Number 28062**

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants submit the following arguments in support of the accompanying Pre-Appeal Brief Request For Review.

Arguments begin on page 2 of this paper.

ARGUMENTS

Applicants raise the following arguments as evidence of clear error in the outstanding final rejection of independent claims 1, 10, 15, 24, 29, and 34 and dependent claim 8. Each independent claim roughly recites at least one option quote area presenting a plurality of option quotes and an order entry area comprising input areas for inputting two or more option orders, wherein selection of one of the presented plurality of option quotes results in population of appropriate input areas of the order entry area with an option order corresponding to the selected option quote. However, the prior art is not seen to disclose or suggest that when one of a presented plurality of option quotes is selected, appropriate input areas of an order entry area are populated with an option order corresponding to the selected option quote.

Claims 1, 10, 15, 24, 29, and 34 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent Publication No. 2003/0004853 (“Ram”). Claims 8, 9, 11, 12 and 22 through 23 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Ram in view of U.S. Patent No. 6,876,981 (“Berckmans”) and further in view of the Office Action's Official Notice. Reconsideration and withdrawal of the rejections are respectfully requested.

§102 Rejections

Claims 1, 10, 15, 24, 29, and 34

The Final Office Action, on page 3, states that Ram discloses when one of a presented plurality of option quotes is selected, appropriate input areas of an order entry area are populated with an option order corresponding to the selected option quote. Specifically, the Office Action alleges that tab 128 is populated with an option order when a presented option quote is selected. Applicant respectfully disagrees.

Ram, at FIG. 12, displays a plurality of tab sets 124/120/128 etc. Tab sets 120 and 124 display securities data and tab set 128 includes a buy button, a sell button and a short button for buying, selling, or shorting securities. At paragraphs [0042] and [0043], Ram discloses that a display, at a trader's location, will display data for a selected security and, as illustrated in FIG. 12, the displayed data will be displayed in a tab set such as tab set 120 or tab set 124. However, nowhere do the aforementioned paragraphs disclose that by selecting a security in a first tab set

(such as tab sets 120 or 124), data will be populated in a tab set that facilitates the ordering of securities, such as tab set 128.

Furthermore, tab sets 120, 124, and 128 each disclose a symbol lookup field with an associated “go” button. However, if, as asserted in the Office Action, selecting a security in a first tab set (such as tab sets 120 or 124) would populate a tab set that facilitates the ordering of securities, such as tab set 128, then there would be no need for tab set 128 to have a symbol lookup field and respective “go” button.

Since tab set 128 comprises both a symbol lookup field and respective “go” button, and since Ram fails to otherwise disclose how option order information may be populated into tab set 128, Ram can in no way to be seen to disclose or suggest that when one of a presented plurality of option quotes is selected, appropriate input areas of an order entry area are populated with an option order corresponding to the selected option quote.

Moreover, the May 29, 2008 Advisory Action (“Advisory Action”) concedes that “Ram may not specifically disclose or suggest how this information is populated”. Thus, while the above-mentioned paragraphs disclose displaying a plurality of data, the paragraphs do not disclose populating data in an appropriate input area of an order entry area in response to selecting one of a presented plurality of option quotes.

The Advisory Action further states that “the claims don’t speak to the fact that the order entry area must be directly correlated to the option quote area”. Applicant respectfully disagrees. The claims specifically state “an order entry area comprising input areas for inputting two or more option orders, wherein **selection** of one of the presented plurality of option quotes **results in population** of appropriate input areas of the order entry area with an option order **corresponding to the selected option quote.**” (emphasis added). Since the population of the order entry does correspond to the selected option quote, the claims do in fact speak to a “correlation” between the option quote and order entry area. Accordingly, amended independent claims 1, 10, 15, 24, 29, and 34 and their related dependent claims are believed to be in condition for allowance.

§103 Rejections

Claim 8

Dependent claim 8 discloses the user interface of Claim 1, where a presented option quote is associated with one of a plurality of brightness levels of a color. A level of brightness is determined based on a difference between a strike price of the presented option quote and a price of a security underlying the presented option quote.

The Advisory Action concedes that “RAM does not specifically teach determining a color based on a difference between a strike price of an option quote and a price of a security” and that “Official notice was taken simply to overcome the fact that neither Ram or Berckmans specifically taught a plurality of brightness levels of color to associate the difference with.” The Final Office Action, on page 6, states that “Official Notice is taken” that determining a brightness level of color for ease of perception and processing of displayed information is “old and well known”. Applicant respectfully disagrees that brightness of a color based on a difference between a strike price of the presented option quote and a price of a security underlying the presented option quote is either old or well known.

As stated in M.P.E.P. 2144.03 (A) “[i]t would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.” Furthermore, “[i]f the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding.”

To support the Official Notice, in the Advisory Action, the Examiner states that the Official Notice “is that humans perceive different shades/brightness levels of colors as separate ‘colors’ all together (lime green vs. hunger green, sky blue vs. navy blue, etc.).” Applicant respectfully believes that the Examiner’s statement falls short of disclosing that a brightness of a color is based on a difference between a strike price of the presented option quote and a price of a security underlying the presented option quote. Therefore, Applicant respectfully believes the dependent claim 8 is in condition for allowance.

CONCLUSION

For at least the reasons given above, it is submitted that the final rejection of the application is improper and should be withdrawn. If any questions arise regarding the application or any of the cited references, or if the panel has suggestions for expediting allowance of the application, the panel is kindly invited to contact the undersigned via telephone at (203) 972-4982.

Respectfully submitted,

June 17, 2008
Date

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) G08.028/U			
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on _____</p> <p>Signature _____</p> <p>Typed or printed name _____</p>		Application Number 10/634,698			
		Filed 08/05/2003			
		First Named Inventor Donald E. Marigliano			
		Art Unit 3693		Examiner Jessica L. Lemieux	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top; padding-bottom: 10px;"><p><input type="checkbox"/> applicant/inventor.</p><p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p><p><input type="checkbox"/> attorney or agent of record. Registration number _____</p><p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>56,534</u></p></td><td style="width: 50%; vertical-align: top; padding-bottom: 10px; border-left: 1px solid black;"><p style="text-align: center;">/Richard S. Finkelstein/ Signature Richard S. Finkelstein Typed or printed name</p><p style="text-align: center;">(203) 972-4982 Telephone number</p><p style="text-align: center;">June 17, 2008 Date</p></td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input type="checkbox"/> attorney or agent of record. Registration number _____</p> <p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>56,534</u></p>	<p style="text-align: center;">/Richard S. Finkelstein/ Signature Richard S. Finkelstein Typed or printed name</p> <p style="text-align: center;">(203) 972-4982 Telephone number</p> <p style="text-align: center;">June 17, 2008 Date</p>
<p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input type="checkbox"/> attorney or agent of record. Registration number _____</p> <p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>56,534</u></p>	<p style="text-align: center;">/Richard S. Finkelstein/ Signature Richard S. Finkelstein Typed or printed name</p> <p style="text-align: center;">(203) 972-4982 Telephone number</p> <p style="text-align: center;">June 17, 2008 Date</p>				
<p><input type="checkbox"/> *Total of _____ forms are submitted.</p>					

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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